

UNSETTLING the CITY

URBAN LAND AND THE
POLITICS OF PROPERTY



Nicholas Blomley

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of Property*

Nicholas Blomley

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A farmer touches the earth in his fields. He thinks, This land is mine. A person in the city too, they walk their favorite streets, they visit their favorite parks.... Others are homeless, unrooted by choice or force," the Professor continued. "I know a man without a home who lives in a place where people park their cars. He knows the city like no other person, from the inside out and at all hours. But he cannot let himself attach to any square foot of it more than any other.... I am interested in these different connections.... The connections between people and the places they call their own. I am interested in how these connections are forged and broken. And how, for some, the connection refuses to break.

—Timothy Taylor, *Stanley Park*

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I dedicate the book to my three daughters Caja, Elina, and Imogen. May they always be brave, smart, and beautiful.

Nicholas Kjølson Blomley
Hammond, British Columbia
Mayday, 2003

Preface

I grew up in a small village (in the Royal County of Berkshire), deep in the English countryside a few miles from the border with Hampshire (now rebranded Jane Austen Country). With its half-timbered cottages, rustic pubs, and rolling countryside, the surrounding landscape appears the epitome of domestication and tranquillity. The coppices, bridle paths, and fields that I roamed over as a child are bit-players in a firmly English story of order, intimacy, and settlement. These are, after all, the “Home Counties.” But, as any rural historian will tell you, this apparently “old” landscape was in fact recently forged through complex and often violent political struggles and legal remakings. Enclosures in the seventeenth and eighteenth centuries swept away many traditional commoners’ rights in the name of improvement and monetarization. This was fiercely contested: Edward Thompson’s classic treatise on the conflict over traditional property rights in the eighteenth century describes events that were partly fought out in the woods, fields, and villages around my childhood home.¹ Mythologies of rural quiescence and deferential community are belied by hierarchies of power and privilege.² Much of the land in the village continues to be owned by a modern-day squire, whose wealth derives from merchant banking in London. Given its proximity to London and the booming M4 corridor, the area has now been caught up in the English real estate bubble. Quaint barns and farmhouses have been gussied up and sold to those in pursuit of the rural idyll. This rural gentrification has meant that many of my former schoolmates, some of them children of tenant farmers, are unable to live in the place of their birth.

In 1988, I moved to Vancouver, retracing the route of millions of European settlers before me (some of them, no doubt, displaced by earlier rural dispossessions). I lived for several years in Vancouver’s inner city, in a neighborhood known as the Downtown Eastside, participating in community affairs and politics. I went on to do research in the area. My work, which I report on here, concerned the ways in which conceptions and practices relating to real property entered into the conflict over gentrification. My hunch was that these conceptions and practices were critical to this struggle, even if they were

not always acknowledged as such by analysts. Yet if land was at issue in the Downtown Eastside, it was also of obvious and pressing importance to provincial politics. Native grievances relating to aboriginal title have been unresolved since colonial settlement. Periodically, these flare up in acts of protest, such as the irruption of native protest blockades in 1990. While the issue of native title was easy to imagine as something outside the city, the visible presence of many native people in the city seemed to complicate things in important ways.

This is a book, then, about urban property and its politics. My title is a play on the word *settlement* and its multiple valences. One meaning of the infinitive *to settle* is the definitive fixing of the unstable. *Settle* is defined, variously, as “to put in order, arrange,” “to make stable or permanent, establish,” to fix definitely,” or “to become more stable or composed, stop fluctuating or changing.”³ In this sense, we shall see that the meaning of property also appears settled. What has been termed the “ownership model” presumes clarity and determinacy in the definition of what property is, and tells us which relationships between people and scarce resources are to be valued as such, and which are not. There is a lot at stake here. The ownership model encourages us to think of property in a particular way, neatly summarized long ago by Felix Cohen: “That is property to which the following can be attached: To the world: Keep off X unless you have my permission, which I may grant or withhold. Signed: Private citizen. Endorsed: The state.”⁴ Property is imagined here as *private* property, with the solitary owner exercising exclusionary rights over a bounded space. While property may be public (that is, held by a state), it is rarely imagined as collective. The ownership model, I shall suggest, is hegemonic, shaping our understandings and practices relating to property. It affects legal deliberations, social discourse, and governmental interventions.

Settlement has a second meaning: “to free from disturbance; calm or quiet,” “to prevent from creating a disturbance or interfering,” and “to end.” Thus, we talk of “settling” a dispute.⁵ And the definitional clarity of the ownership model is deemed valuable, in part, because it “quiets” title, promising secure and uncontested relations with others with respect to the use and disposition of things. The enactment of property not only presumes a definitional certainty (*this* is property, *that* isn’t), but also invites us to imagine that property and settlement are synonymous. The unitary owner at the center of the model is imagined as secure in her entitlements, and the institution of property is rendered a means for preventing discord. The clear markers of ownership and the “established expectations” of property are supposed to work to ensure the “quiet enjoyment” of the land. Property brings certainty. Certainty brings peace and prosperity.

The degree to which property is, indeed, “settled” is consequential, affecting the ways in which power, subjectivity, and political relations are conceived. It encourages a view of property as nonsocial; that is, as concerned with relations between people and things, thus obscuring property’s affect on social relations of power. It underwrites the public/private divide, so central to capitalist institutions and ideology. In acknowledging only certain relations as “property,” the ownership model ignores the claims and aspirations of many. But I suspect that the definitional “settlements” of property also affect scholarship. We tend not to reflect on the ways in which the first world city is a propertied space. Although there is a literature on the social and political dimensions of property, it tends not to focus on the metropolitan West.⁶ This is, in one sense, for a good reason. Globalization and neoliberalism have wrought profound changes on property relations in the developing world. However, within the West, and more particularly within the city, urban processes and conflicts are not often framed in a similar language. Although there is a small, though important body of literature that takes property seriously, urban scholars have tended to underplay the importance of property as a set of political and legal relations to urban social relations.⁷ Not only does this essentialize private property (which is, as we shall see, a good deal more complicated, cultural, and uncertain than might at first appear), it ignores the possibilities that property in the urban heart-land may be differentiated and diverse. Gentrification, for example, is often theorized in relation to the economics of property, whether in relation to the dynamics of supply or demand. Although this is clearly important, I shall suggest that a focus on real estate can usefully be supplemented by an attention to real property, especially if one recognizes the importance not only of private and state property, but also of claims to property that are neither. Urban land, in other words, needs to be recognized as land over which a legal regime of real property is operative. I will try and unpack the implications of this claim for an analysis of the city more generally, arguing that spatial conflicts, urban development, urban planning, urban political identities, postcoloniality, and the construction of place are all partly shaped by and constitutive of property relations.

In calling this book *Unsettling the City*, my goal is to challenge these dominant settlements of property. On several counts, it may be that property is more definitionally, politically, and empirically heterogeneous than the ownership model supposes. For if we look more closely, we can find a striking diversity of relationships between people and land that appear propertylike, even if they do not fit within the prevailing definitions of property. Although many of these relationships are collective, it also appears that private property itself may be a good deal more complicated. Property claims can also overlap; thus it is, for example, that supposedly private or state property can be claimed in the name of a community. I want to take these appropriations seriously.

Perhaps because of these multiple claims, property emerges as a site for conflict. State-sanctioned property claims are challenged; alternative claims to land are articulated that are neither public nor private, but something in between. If property appears settled, perhaps this is more a “reality effect” of the ownership model, than an accurate mapping of property in the world.

But *settle* has a third meaning that I wish to challenge in relation to property. To settle can also denote stability after a period of flux. Thus, we talk of settlers as those who, like me, migrate and then “settle down.” Similarly, dominant treatments of property assume that ownership rights are created at one moment in time and immutable thereafter. However, it seems useful to recognize that property is not a static, pregiven entity, but depends on a continual, active “doing.” As *settle* is a verb, so property is an enactment. This enactment can include what has been termed *persuasion*, that is, communicative claims to others.⁸ This can include story telling, such as Locke’s influential “creation-myth” of property. But property is also enacted in more material and corporeal ways. Bodies, technologies, and things must be enrolled and mobilized into organized and disciplined practices. Real property, more generally, must be enacted upon material spaces and real people, including owners and those who are to be excluded. Police officers must enforce the law. Legal contracts must be inscribed, signed, and witnessed. Citizens must physically respect the spatial markers of property. Similarly, I shall suggest, the definitional boundaries of property must also be policed. Thus it is that certain types of property relation (almost exclusively private) are acknowledged and sanctioned, while others (almost exclusively state or communal) are derided. Property, in that sense, must be continually “settled.” But as we shall see, more informal property claims (that is, not legible to the ownership model) are also enacted. That these are not always acknowledged as property perhaps speaks more to the prevalence of a certain definition of property than the degree to which these informal claims constitute viable forms of entitlement.

These enactments of property, I want to argue here, have an important geography. In recognizing this, I hope to contribute to the emergent scholarly interest in the geographies of law.⁹ Not only does the making of property entail the making of space (for example, through the cadastral survey), but property’s enactments are also caught up in the creation of particular landscapes that are simultaneously material and representational. The city is a particularly interesting space for these reasons. On the one hand, I shall suggest, its symbolic value as a site of civilization and settled prosperity has often been yoked to its role as a propertied space. However, the very creation of the city, and its continued remaking seems all too often to be associated with acts of dispossession and eviction. Within the West, the creation of the urban working class, Marx argued, was based on the expropriation of the rural peasantry, such

as those of my rural home, in acts of “reckless terrorism.”¹⁰ In contemporary “settler societies” the inauguration of urban space has often entailed the dispossession of indigenous populations. Contemporary processes of gentrification also threaten and deliver other dispossessions. Yet these dispossessions are often evicted from urban history, despite their continued contestation by those affected.

In exploring the political geographies of urban property, I aim to make a broader argument about the analytical and political insights that come from recognizing urban spaces as propertied spaces. Property here is understood in largely political and legal terms, characterized by a particular and potent mix of rights, jural relations, ideologies, and exclusions. To invoke property is to summon up both formally prescribed rights as well as nonjusticiable, yet still powerful, understandings of ownership and entitlement. It is to recognize that property is deeply social and political, structuring immediate relations between people as well as larger liberal architectures, such as the division between public and private spheres. Property, moreover, implies diverse and often contradictory social beliefs and representations (relating to masculine citizenship, race, visions of the economy, claims to community, and so on). Property is also predicated on physical, material practices; notably the state-enforced right to expel.

To say that property is “political” is to say several things. Most obviously, it is to say that property in all its manifestations has a relation to the state. Even with the abolition of property ownership as a basis for enfranchisement, the “good” citizen is still one who enjoys a particular relation to land. The day-to-day operation and enforcement of a regime of private property, moreover, is clearly dependent on state practices, whether through cadastral mapping or policing. However, it also reminds us of the ethical dimensions of property, especially when packaged as a “right.” Our “enjoyment” of property frequently depends upon the dispossession of others, whether now or in the past, for example. More generally, spatial conflicts and struggles over urban development, I suggest, frequently turn on contests over the meaning, moralities, and politics of property. Property’s ethics have tended to be viewed in either a negative or positive light. My argument will be that property can be both, depending on the particular social contexts within which it is put to work. The politics of rights, such as property, depend.

I offer an exploration of one urban place—the Downtown Eastside, in inner-city Vancouver, Canada—in an attempt at unsettling the geographies of property more generally. I do so with reference to some specific moments when the conditionality and politics of urban property in Vancouver have been forced to the surface. A “new” city, colonially speaking, Vancouver’s past is still powerfully present in its contemporary landscapes. The inner city, in particular, is an intensely disputed space: local antipoverty activists have long

fought gentrification and redevelopment, increasingly driven by the city's quest for a place in the globalizing order of the Pacific Rim. However, other struggles and displacements are also at issue. Although some have their roots in old injustices—including the dispossession of Native peoples, who have used these lands for millennia—they continue to resonate in this place. Although this struggle is fought over many issues, I argue that the symbolic and material dimensions of real property are central. The politics of property, I argue, turn out to be diverse.

But this book is also about much more than Vancouver. Although there is an important specificity to Vancouver, its struggles over urban space and urban property are, of course, far from unique. More immediately, while struggles over real property have long been important to many cities, they have reached a new intensity of late, given wider shifts in the social geography of the city. As cities strive for world-class status, inner-city populations have experienced intensifying displacement. The “enclosure” of the urban commons has also been a site for conflict. But for cities in settler societies, such as North America or Australasia, such “global” developments can confront “a very specific local politics deeply marked by the historical legacy of the colonial dispossession of indigenous peoples.”¹¹ The interplay between these related dispossessions creates, I think, a particular and rarely acknowledged politics.

And in recognizing this politics I aim for other goals. Increasingly, perhaps, cities are the site for a variety of spatial struggles, many of which turn on the geographies of property, including state attempts at regulating homelessness and panhandling, in combination with a variety of development-driven displacements, such as gentrification. Such initiatives, it has been said, are sustained by an increasingly “revanchist” approach to marginalized urban populations, as well as “common-sense” assumptions about property, such as the “naturalness” of displacement, or the beneficial effects of middle-class ownership in poor neighborhoods. Consequently, there seems an urgent need to do two related things. First, I aim to acknowledge those ongoing attempts to *contest* these dispossessions, in both their material and representational forms. Struggles over the spaces of the city can be understood as part of the long-standing struggle to resist the enclosure of the commons, and carve out a right to place. I see such struggles as an integral part of a long-standing contestation of certain configurations of property rights. But this is not simply a politics of opposition. It also relies upon the enactment of alternative claims to land, often communal in nature. Enclosure is bad, in that sense, to the extent that it threatens a valued commons. The political purchase—and endurance—of the latter needs to be acknowledged in making sense of the former. Second, in so doing, I hope to speak to the political possibilities and spaces of contemporary urban citizenship in relation to property. Although property's discourses and practices are the means by which poor and racialized city dwellers are

dispossessed, such discourses and practices are also a crucial political resource in challenging these dispossessions. Property comes freighted with an array of historically layered and often contradictory possibilities. Property, as Marx insisted, is not reducible to private property.¹² Moreover, as C.B. Macpherson argued, the necessary concomitant of property's "right to exclude" is the "right *not* to be excluded."¹³

The first chapter, therefore, begins by asking the question: What is property? Although this may, as noted, appear a settled question, I shall suggest that the answer is far from obvious. The ownership model, central to legal liberalism, identifies property as essentially private, with state property as the anomalous exception. Property is imagined (and spatialized) in a particular way, moreover, with important political consequences, including a reluctance to acknowledge claims to land that do not easily fit within the model as "property." The imagined certainty to property encourages a view of property relations as settled. Property's "established expectations," as Bentham puts it, offers us a world of clarity and concord. I begin to challenge both these claims, suggesting that people in cities, as elsewhere, articulate many property-like claims that fall outside or complicate the ownership model. In part because these claims conflict, urban property itself can be a site for struggle.

[Chapter 2](#) moves to a discussion of gentrification, with particular reference to inner-city Vancouver, arguing for the existence of a continued and complicated struggle about property. Low-income residents and activists not only challenge the exclusions of private property, they articulate a localized collective claim to certain valued spaces and buildings that are collective in their reach. Property, in other words, is both challenged and defended. I draw on the concept of landscape to try and tease out the enactments of this claim. Landscape is particularly helpful here, given its double meaning as a material site and mode of spatial representation. Both seem as important to opposition to gentrification, as they are to dominant enactments of property. Within the Downtown Eastside, the material co-production and physical occupation of the neighborhood, as well as forms of visual appropriation and mapping, play a powerful role in sustaining and reproducing a collective informal claim to space. Gentrification-induced displacement compromises this claim. Yet a collective entitlement serves, in turn, as a powerful basis for opposition.

Since [chapter 2](#) focuses on the arguments made by low-income activists, [chapter 3](#) includes the claims of private property owners. The moral frontier so prevalent in inner-city gentrification, I suggest, is partly forged through opposing claims and understandings related to the ethics of property. Different readings of rights, property, time, and space combine to create opposing constellations of moral claims related to gentrification and residency. These claims about residential change seek to answer a series of important framing questions, such as: What is a place like prior to gentrification? How should

change occur? What are the broader dynamics of change itself? Drawing again on the Downtown Eastside, I shall focus in particular on three polarities that roughly coincide with these questions. First, a characterization of an inner-city population as mobile and transient is counterposed with a claim on behalf of the urban poor to residency and citizenship. Calls to increase “social mix” to revitalize a neighborhood are answered by the argument that “mix,” in the context of prevailing property arrangements, will translate into social exclusion. Finally, a dynamic concept of “highest and best use” is countered by the concept of “community use.” Such concepts rely, in turn, on particular histories and geographies of a space.

Characterizations of the residents of the inner city as mobile and unfixed bear a striking resemblance to many representations of native people. In both cases, the effect is to force a separation between a population and the space it occupies, rendering a collective claim to this space void, even invisible. My fourth chapter, then, turns to a discussion of the creation of the settler-city, and its relationship to prior indigenous claims. The beginnings of property, it seems, all too often entailed the denial of these entitlements. This denial, however, endures: there seems an enduring blindness towards both historic dispossessions and the continuation of indigenous claims to urban land. This is reflected, perhaps, in the relative paucity of scholarship on the contemporary city as an aboriginal space. I distinguish between foundational acts of *dispossession*, and continuing processes of *displacement* that present the settler-city as a necessarily and naturally nonnative space. Displacement, I suggest, is sustained through narrative, material settlement and mapping, all of which rely, in various ways, on representations of landed property. Set in motion many years ago, this process and its politics persist. Yet native people have always challenged both dispossession and displacement. The last few decades, perhaps, have seen an intensification of these challenges that have begun to implicate the settler-city. Again, the enactment of this counterclaim occurs through the creative material and representational reworking of urban space, such as public art, material occupation, and remapping. The settler-city, ground zero in the colonial imagination, is an increasingly unsettled space. While I refer to Vancouver, I also speak more generally of Australasia, Canada, and the United States.

Although the issues I cover in this book are nothing new, I have found relatively little scholarship on them. This seems surprising, as property surely matters to urban politics. If nothing else, I trust that the book makes this point. One consequence, however, is that I open up many issues without bringing them to closure. This is also a problem of my own making: it would have been easier to focus only on the politics of property in relation to gentrification. However, to then overlook the colonial land nexus as it relates to the city seems inappropriate, especially in the city I now occupy. My concluding

chapter, then, tries tentatively to connect gentrification and colonial displacement. I do so by drawing upon a remarkable anonymous art installation in the Downtown Eastside. The installation alerts us to the complicated and often agonistic politics associated with the forging of the urban frontier, whether driven by capitalism, colonialism, or patriarchy. The enactment of property can erase and efface in ways that are both symbolic and ineluctably corporeal. Yet property can also serve as a site for creative remembering and reinscription. It is with these multiple possibilities that I conclude. Like the Professor in Timothy Taylor's novel, cited above, "I am interested in...the connections between people and the places they call their own. I am interested in how these connections are forged and broken. And how, for some, the connection refuses to break."

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CHAPTER 1

Welcome to the Hotel California

It's a comfortable feeling to know that you stand on your own ground. Land is about the only thing that can't fly away.

—Anthony Trollope, *The Last Chronicle of Barset*

[T]here is not only argument about what the institution of property ought to be, there is also dispute about what it is.

—C.B. Macpherson, “The Meaning of Property”

What Is Property?

In October 1997, Wade Luciak, the owner of the Hotel California in Vancouver's Downtown South neighborhood, evicted fifty long-term tenants, and gave notice to fifty more. Rents were increased from the near-welfare rate of four hundred dollars a month that long-term residents paid to a nightly rate of sixty dollars (or eighteen hundred a month). The owner ordered the evictions to make room for higher paying tourists, and because of his concern with a proposed city bylaw designed to discourage the demolition of lower-priced units. Luciak reportedly saw this as an unjustified limitation on his profits and his abilities to run his business as he saw fit. In a media interview he claimed to regret the evictions: “I really think the world of them [his tenants] and they think the world of me.”¹

The story of the Hotel California appears quite obviously to be a story about property. From the brief description, it is easy for any observer to assign and name property's basic categories. Thus, Wade Luciak is an owner. He owns a building, the Hotel California. As such, we expect him to enjoy certain rights. The building is occupied by tenants. Though they may enjoy certain limited rights, these tenants are ultimately subject to the rights of Luciak to expel them from his property. The city of Vancouver has interests that are seen as external from, and ultimately secondary to, the rights of the owner. “Economic” imperatives (an entrepreneur's need to earn a profit) are juxtaposed in this

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